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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/657,854

09/09/2003

Kenneth M. Martin

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34300

7590

06/12/2006

PATENT DEPARTMENT (51851)  
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EXAMINER

PIZIALI, JEFFREY J

ART UNIT

PAPER NUMBER

2629

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Non-Compliant Amendment (37 CFR 1.121)

Applicant(s)

10/657,854

Examiner

Jeff Piziali

Applicant(s)

MARTIN ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 09 December 2005 & 21 March 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
- ☒ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☒ C. Other See Continuation Sheet.
- ☒ 2. Abstract:
- ☒ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☒ B. Other See Continuation Sheet.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

## TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

Continuation of 1(c), 2(b), and 4(e) Other:

First and foremost, the applicants are cordially thanked for the 'Amendment and Response to Non-Final Office Action' filed 21 March 2006 as well as the 'Amendment and Response to Non-Final Office Action' filed 9 December 2005. However, several seemingly non-compliant amendments have been discovered in both papers, requiring attention before examination may continue.

37 C.F.R. § 1.72 requires, "A brief abstract of the technical disclosure in the specification must commence on a separate sheet, preferably following the claims, under the heading 'Abstract' or 'Abstract of the Disclosure.' The sheet or sheets presenting the abstract may not include other parts of the application or other material."

The 'Amendment and Response to Non-Final Office Action' filed 9 December 2005 seeks to replace the 'Abstract of the Disclosure' (see Page 3 of the 'Amendment and Response to Non-Final Office Action' filed 9 December 2005). However, the replacement 'Abstract of the Disclosure' has not been presented on a separate sheet, as required. The applicants are respectfully encouraged to submit the replacement 'Abstract of the Disclosure' on a separate sheet.

37 C.F.R. § 1.121(b)(1)(ii) requires, "The full text of any replacement paragraph with markings to show all the changes relative to the previous version of the paragraph. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strikethrough cannot be easily perceived."

The 'Amendment and Response to Non-Final Office Action' filed 9 December 2005 seeks to replace paragraph 0088 of the specification (see Page 7 of the 'Amendment and Response to Non-Final Office Action' filed 9 December 2005). However, the provided replacement paragraph appears to be amending/replacing an entirely different paragraph -- at least compared to the one found on page 29 of the originally submitted specification. The applicants are respectfully encouraged to double-check that they are indeed replacing the intended paragraph.

37 C.F.R. § 1.121(b)(1)(ii) requires, "The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of 'currently amended,' or 'withdrawn' if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as 'withdrawn--currently amended.'"

The 'Amendment and Response to Non-Final Office Action' filed 21 March 2006 appears to be seeking to amend claim 29, by adding a space between "comprising" and "determining" (see Page 6 of the 'Amendment and Response to Non-Final Office Action' filed 21 March 2006). However, there was already a space between those two terms in the immediate prior version of the claims (see Page 13 of the 'Amendment and Response to Non-Final Office Action' filed 9 December 2005). The applicants are respectfully encouraged to make sure that this claim is intended to be amended.

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The amendments have not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered at the time of a subsequent amendment, yet another Notice of Non-Compliant Amendment will be necessitated. Applicants' cooperation is requested in correcting any other errors of which applicants may become aware.

The applicants are hereby notified that the examiner's art unit has recently changed from Art Unit 2673 to Art Unit 2629, please direct all future correspondence accordingly. Thank you.



J.P.  
2 June 2006